IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 8580 of 2004

Between:

The Thesophical Society, running V.B.V.U.P., Primary

and High School, Visakhapatnam, rep. by its

Correspondent- A. Venkateswarlu.

..... PETITIONER

AND

1. District Educational Officer, Visakhapatnam.
2. Commissioner and Director of School Education,

A.P., Lakdikapool, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to examine the records relating to the communication of the fact of nomination of the correspondent ship on 14.9.2003, and the proceedings dated 8.3.2004 and 18.3.2001 of the 1st respondent, declare that no approval is necessary whenever the correspondent is nominated by the Executive Committee as per the provisions of the A.P. Education Act and the rules made there under the consequently issue a writ of Mandamus or any other appropriate writ, order or direction, directing the respondents not to interfere with the powers of the governing body in nominating the correspondent and not to insist upon obtaining the signature on the form of declaration by the Ex-Correspondent for the grant of teaching equipment etc., due to the school and other functions.

Counsel for the Petitioner: MR.RAMA RAO PHILKHANA

Counsel for the Respondent Nos.1 and 2: GP FOR EDUCATION

The Court made the following :

O R D E R :

The grievance of the petitioner is that respondents are not approving the appointment of Jagarlamudi Venkateswarlu, nominated by the Managing Committee of the School as the Correspondent of the School, merely on the ground the previous Correspondent did not sign the transfer of charge and such attitude on their part is unwarranted.

2. The contention of the respondents is that since petitioner did not submit the application for transfer of correspondentship in the prescribed proforma and did not furnish an undertaking to the effect that new correspondent will pay the audit dues, if any, and would abide by the department rules, they did not process the application for approval of the Correspondent of the School, nominated by the Managing Committee.

3. The contention of the learned Counsel for the petitioner is that in view of Section 24 (2) of the Andhra Pradesh Education Act, 1982, (the Act), Management of the School can nominate a person to manage the affairs of the institution, and intimate such nomination within thirty days thereof to the competent authority, and since Rule 15 of the Andhra Pradesh Educational Institutions (Establishment, recognition, administration and control of schools under private managements) Rules, 1993, (the Rules), referred to and relied on by the respondents in the counter affidavit, do not contain a provision, necessitating the previous incumbent of the office, affixing his signature, respondents are no right in insisting the signature of the previous

Correspondent and their not approving the bills submitted by the new correspondent is contrary to provisions of the Act and the Rules. He relied on *Pakalapati Satyanarayana Raju v. Government of A.P. and others* and *S.L.Kameswari v. Govt. of A.P., Education Dept. and others.*

4. The contention of the learned Government Pleader is, for according approval of new correspondent, as per the proceedings in Rc.No.492/B3-1/2000 dated 15.05.2002, particulars in a proforma have to be submitted and if the former correspondent refuses to cooperate with the management, the new correspondent or the management have to give an undertaking that the new correspondent would pay the audit dues, if any, and without such undertaking question of granting approval of the new correspondent would not arise.

5. Power of the management of an institution to appoint a new correspondent in place of the earlier incumbent cannot be disputed. In the two decisions relied on by the learned Counsel for the petitioner, there is no specific observation that the instructions given by the department need not be followed. In the counter affidavit filed on behalf of the respondents, it is stated that since petitioner did not submit the application for transfer of correspondentship, or an undertaking as required, they are not able to take further action. So it is clear that approval is withheld for noncompliance of the requirement No.6 in proceedings-Rc.No.492/B3-1/2000, dated 15.05.2002.

6. In view thereof, this writ petition is disposed of, with a direction to petitioner to give an undertaking to the effect that the new correspondent will pay audit dues, if any, and abide the department rules and on such undertaking being given respondents shall take further action in the matter. This exercise shall be completed within four

weeks from the date of receipt of a copy of this Order.

7. Writ petition is ordered accordingly.

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C.Y.SOMAYAJULU, J.

Dated: 22nd February, 2005.

CS

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Educational Officer, Visakhapatnam.
2. The Commissioner and Director of School Education,

A.P., Lakdikapool, Hyderabad.

3. Two C.Cs. to the Government Pleader for Education, High

Court Buildings, Hyderabad. (O.U.T.)

4. Two C.D. copies

*Form-NIC-OGS/WP{**ND**}*